REMARKS

Claims 1-142 are presented for examination; and of these, independent claims 1, 22, 41,

48, 67, 74, 81, 88, 91, 94, 101, 104, 111 and 120 have been amended. Claims 127-142 are new.

Reconsideration of the subject application in view of this Paper is respectfully requested.

The instant Office Action states that each of the independent claims, which include

claims 1, 22, 41, 48, 67, 74, 81, 88, 91, 101, 104, 111 and 120, are rejected as being anticipated

by U.S. Patent No. 6,647,548 to Lu et al. (hereinafter "Lu") under

35 U.S.C. § 102(e). Claims which depend from such independent claims are also said to be

anticipated by Lu, or, are said to be rejected under 35 U.S.C. § 103(a) as being unpatentable over

Lu in view of variously taken Official Notice. Claims 3, 4, 24, 25, 50, 51, 83, 84, 96, 97, 98, 106

and 107 are objected to as being dependent upon a base claim, but are said to be allowable if

rewritten in independent form including all of the limitations of the base claim and any

intervening claim. Each of the positions as to patentability of claims 1-126 had also been stated,

as above, in the prior Office Action.

Applicant acknowledges consideration of the amendment(s) and remarks dated

March 30, 2007 as represented in paragraph four (4) of the instant Office Action. However, it is

respectfully submitted that the discussion presented therein is inapplicable to the claims

previously presented, as well as to those currently presented on the above Listing of Claims.

The Office Action argues that Lu's description of its correlation of ancillary codes with

program records satisfies the meaning of "decode" and any reference to that term in Applicant's

specification and claims. It is respectfully submitted that such argument misunderstands

accepted meaning given to the term "decode", as is supported by the attachment from

http://encarta.msn.com/ecnet/features/dictionary. Therein, the term "decode" is defined as, alternatively: "to transform an encoded message into an understandable form", or, "to transform into a usable form." Thus, it is clear that the correlation process taking place at Lu's central office apparatus 32 is not "decoding" of its ancillary codes since there is no transformation of such information. Any such transformation by Lu is said to take place at locations other than at its central office apparatus 32.

As previously presented, each of the claims provided for "at the remotely located processing system, processing the data set to decode the ancillary codes". Paragraph [00058] of Applicant's specification supported such an amendment.

Lu failed, and still fails, to show, either expressly or inherently, such a feature. Rather, Lu discloses simply providing for a check as to the presence of such codes at its central site 34. This check consists of "sanity processing". This is merely a method of determining which already decoded ancillary codes are to be used in a correlation process aimed at producing an identification of media data. See column 12, lines 42-54 and column 13, lines 15-38.

Decoding of ancillary codes does not take place at Lu's central site 34 since such codes have previously been read by its code reader 52 or 60 at, respectively, the household 12 or at such location that the portable metering apparatus 26 may be used. To employ further code reading, i.e., decoding, at central site 34 would lack purpose -- thereby ample justification why doing so is not discussed in Lu.

Further still, Lu offers additional bases for concluding that any information from which the media data may be directly identified is obtained without transformation of such data at its central site 34. First, at the user site, information from a station detector 54, or alternatively, from manual entry by the viewer into an input device, e.g., a people meter 16, is used to produce the identification of a program in the absence of an ability to read ancillary codes. See column 8, lines 55-67 and column 9, lines 9-47. Second, Lu describes its tuning records 90 (which are obtained, for example, from the household metering apparatus 14 located at the household 12) as already containing decoded audio codes by virtue of their inclusion of a code field 96. See column 12, lines 1-20.

Applicant's claims as then amended clearly provided that initial decoding of ancillary codes is carried out by a processing system located remotely from the recited user location. As will be understood by one of ordinary skill in the art, obtaining information from ancillary codes to enable the measurement of the usage of media data in this manner greatly reduces the complexity and expense of equipment necessary at the user location. Further, initially decoding information at a location remote from the user location permits an ability to select from among many different types of devices having an ability to communicate the data set of Applicant's invention.

To now further clarify, Applicant has chosen to amend the claims as shown on the above Listing of Claims. Thereon, it may be seen that independent claims 1, 22, 48, 81, 94 and 104 provide for "forming, without processing the media data sufficiently to decode an ancillary code, a data set in the monitoring device." Independent claims 41, 67, 74, 88, 91, 101, 111 and 120 have been amended to provide that the media data received at the user location is "such media

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data not having been processed to decode an ancillary code." Additionally, each of such claims have been further amended to clarify emphasis upon decoding of ancillary codes in the media data whereby the feature regarding production of a signature respecting the media data has been removed.

In addition to not having shown the features of the claims presented in Applicant's last Paper, Lu also does not show the above features as included in the claims as now amended. Conversely, Lu expressly provides for the opposite of such features; it discusses (1) a household metering apparatus 14 including an ancillary code reader 52, and (2) a portable metering apparatus 26 including a code reader 60, each existing for the purpose of reading ancillary codes prior to any activity at its central site 34.

Claims 127-142 have been added. Support can be found at paragraphs [00029] and [00048]-[00052] of Applicant's specification, or alternatively, at paragraphs [0033] and [0052]-[0056] of Applicant's U.S. Patent Application Publication No. 2003/0005430.

Accordingly, it is submitted, for all of the reasons presented, that rejection of the claims is no longer appropriate in view of this Paper; thus, it is respectfully requested that such rejection be withdrawn.

It is submitted that the claims pending in the subject application are in condition for allowance. Accordingly, reconsideration of the application and allowance thereof are respectfully requested. If the Examiner believes that an interview would expedite consideration of this Amendment or of the application, the Examiner is invited to telephone the undersigned directly by calling (212) 790 – 9278.

The Director is hereby authorized to charge any fees under 37 C.F.R. §§ 1.16-1.17

which may be required by Papers filed in this application to Deposit Account

No. 03-3415.

Dated: August *23*, 2007

Respectfully submitted,

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Dictionary

Find

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A B C D E F G H I J K L M N O P Q R S T U V W X Y Z

declining
balance method

declinometer

declivitous

declivity

declutch

Deco

decoct

decoction

▶ **decode**

decoder

decoke

decollate

décolletage

décolleté

decolonize

decolor

decolorant

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decode

(▶) decode

de·code [dee kṓd] (*past and past participle* de·cod·ed, *present participle* de·cod·ing, *3rd person present singular* de·codes)

transitive verb

Definition:

1. decipher code: to transform an encoded message into an understandable form

2. transform electronic signal for use: to transform an electronic signal into a usable form

3. find meaning of indirect language: to find the direct meaning of cryptic or indirect language

4. discover underlying meaning of image: to understand the underlying meaning of something such as a painting

- **de·cod·a·ble** *adjective*
- **de·cod·er** *noun*

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